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DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D. C. 20548**

FILE: B-195652

DATE: April 1, 1980

MATTER OF: James C. Bowers - Reimbursement
of for real estate expenses

DIGEST: Transferred employee sold residence at old duty station where the title to the property was held in his, his wife's and his parents' names. Property purchased at new duty station was held in his, his wife's and his wife's parents' names. None of the parents were members of the employee's immediate family. Federal Travel Regulations require that title to residence be held in name of employee alone, or jointly with one or more members of his immediate family, or in the name of one or more members of the immediate family. Reimbursement of real estate costs is therefore limited to extent of the interest of the employee and members of his immediate family in residence, in this case 50 percent.

The issue presented upon an appeal from a settlement of our Claims Division is to what extent are real estate expenses reimbursable where an employee's parents names or the names of his wife's parents appear on a deed as co-owners solely because of financial requirements in securing a loan. The employee may only be reimbursed on a pro-rata basis.

James C. Bowers, an employee of the Department of the Interior, was transferred from Santa Barbara, California, to Laguna Niguel, California, in 1978. Upon being transferred Mr. Bowers sold his family residence in Santa Barbara and purchased a new residence at Yorba Linda near his new duty station. Title to the property that was sold in Santa Barbara was in the names of Mr. Bowers, his wife and his parents. Title to the property purchased in Yorba Linda was in the names of Mr. Bowers, his wife, and his wife's parents. It appears that the presence of the parents' names on the respective titles was for the purpose of securing a home mortgage

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loan. All of the mortgage payments have been made by Mr. Bowers and his wife. They received the entire proceeds from the sale of the residence in Santa Barbara. They paid all of the expenses of the purchase and sale of the respective properties. None of the parents have occupied either of the residences as a home.

The statutory authority for reimbursing an employee for real estate expenses incurred incident to a transfer is 5 U.S.C. § 5724a(a)(4) (1970), which includes certain requirements relating to the title to the property involved. These requirements are set forth in the Federal Travel Regulations (FPMR 101-7) para. 2-6.1c (May 1973) (FTR), which states that real estate expenses may be reimbursed provided that:

"The title to the residence or dwelling at the old or new official station, or the interest in a cooperatively owned dwelling or in an unexpired lease, is in the name of the employee alone, or in the joint names of the employee and one or more members of his immediate family, or solely in the name of one or more members of his immediate family. For an employee to be eligible for reimbursement of the costs of selling a dwelling or terminating a lease at the old official station, the employee's interest in the property must have been acquired prior to the date the employee was first definitely informed of his transfer to the new official station."

Paragraph 2-1.4d of the FTR defines "immediate family" as:

"(1) Any of the following named members of the employee's household at the time he reports for duty at his new permanent duty station or performs authorized or approved overseas tour renewal agreement travel or separation travel:

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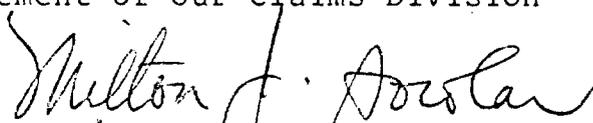
"(c) Dependent parents (including step- and legally adoptive parents) of the employee or employee's spouse (See (2), below, for dependent status criteria.) * * *

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"(2) Generally, the individuals named in 2-1.4d(1)(c) and (d) shall be considered dependents of the employee if they receive at least 51 percent of their support from the employee or employee's spouse; however, this percentage of support criteria shall not be the decisive factor in all cases. These individuals may also be considered dependents for the purposes of this chapter if they are members of the employee's household and, in addition to their own income, receive support (less than 51 percent) from the employee or employee's spouse without which they would be unable to maintain a reasonable standard of living."

There is no indication that the parents of the employee or his spouse were members of the employee's household or were dependent on the employee. Thus even though the record before us shows that Mr. Bowers paid all of the expenses in the purchase and sale of the residences, he may be reimbursed his expenses only to the extent of his and his wife's interest in the residence. Since in each case 4 persons were owners of the property, 2 of whom qualified as owners for reimbursement purposes under the applicable regulation, payment was properly allowed for one-half of the total cost involved. B-184478, May 13, 1976; B-183048, May 13, 1976; and B-167962, November 7, 1969.

Accordingly the settlement of our Claims Division is sustained.



For the Comptroller General
of the United States